

REMARKS

Claims 1-24 are pending in the current application and are presented for reconsideration. By this Amendment, Applicant has amended claims 1 to 24 to emphasize the fact that the covers are pivoting members having closed position and the binders extend parallel to either the hinge or the spine and to improve the style of this application.

Applicant thanks the Examiner for the courteous interview held on September 29, 2006 during which suggestion as to further clarification of the claims were discussed. Applicant's representative appreciates the helpful suggestion provided by the Examiner.

Applicant requests reconsideration of the claims as amended in light of the remark here below.

I. Claim Rejections Under 35 U.S.C. § 112

Claims 6-9 have been rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Specifically, the Office Action states that it is unclear in Claim 6, lines 2 and 3, how the hold down page is anchored to the spine, when the ring binders connected to the hold down page do not contact the spine.

In response, Applicant directs Examiner to FIGS. 5 and 6 and states that the hold down page can be anchored to any place on the spine or on the cover. For instance, the latch 84 may be placed at the hinge portion. Thus, the hold down page is anchored to the spine.

II. Claim Rejections - 35 USC §102

A. The U.S. Pat. No. 2,233,898 to Pitt et al.

Claims 1-3 have been rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Pat. No. 2,233,898 to Pitt et al. (the "Pitt et al. '898" reference, hereinafter). This rejection is based on the Patent Office position that the Pitt et al. '898 reference discloses all features of claims 1-3.

The Pitt et al. '898 reference discloses a loose leaf books of the type in which the leaves are removably retained by a supporting unit which serves as the back of the book.

1' 1' and 1' are All Spines and Not Covers

The plates labeled 1', 1' and 1' in FIG. 1 of the Pitt et al. '898 reference are all Spines bordered by hinge plates 22 and 23. The specification of the Pitt et al. '898 states this as follows:

*"Two book covers 20 and 21 are respectively provided with **hinge plates 22 and 23** having barrels 24 and 25 disposed respectively between and aligned with barrels 2 at the outer longitudinal edges of the **hinge back members 1'.**" (Col. 2, Ll. 7-11)*

Further, as can be seen from the top plan view of FIG. 6 of the Pitt et al. '898 reference, the hinges 2 and 2 would not allow the either side spine to collapse against the central spine in a perpendicular pivoting motion. Thus, either sides where the binders are provided, function as spines and not covers. This is in contrast to the claims as amended. Further, Applicant has

highlighted claim 1 to state that the pair of covers are constructed with a pivoting surface that pivots 90 degrees against the spine.

Thus, it is Applicant's position that the Pitt et al. '898 reference does not anticipate nor does it suggest the present invention as claimed.

B. The U.S. Pat. No. 4,575,273 to Gerriet

Claim 20 has been rejected under 35 U.S.C. 102(b) as being anticipated by the U.S. Pat. No. 4,575,273 to Gerriet (the "Gerriet '273" reference, hereinafter). The anticipation rejection requires that all of the features of the present invention must be disclosed by the Gerriet ;273 reference.

It is Applicant's position that the Gerriet '273 reference also fails to disclose or suggest the present invention as claimed. The Gerriet '273 reference discloses a binder for computer print out paper that fits into a standard sized file cabinet. It comprises a series of hinged together panels, two opposite ones of which hold, along one edge, a pair of rings retained in aligned slots. The rings are capable of movement in two different directions, and such rings hold the paper within the binders.

Binders Extend Crosswise According to the Gerriet '273 Reference

However, as pointed out above, the Gerriet '273 reference discloses a binder for computer printout. In such binder apparatus, the two means for fastening the sheets is fastened in the vicinity of the upper edge of the bottom panel and the other in the vicinity of the upper

edge of the top panel. This is fastened to achieve two degrees of freedom, a crosswise displacement parallel to the bottom or top panel.

In contrast, claim 20 as amended provides for binders to extend parallel to the pair of hinges. Therefore, the Gerriet '273 reference fails to anticipate nor suggest the present invention as amended.

C. The U.S. Pat. No. 6,488,433 to Wien et al.

Claims 22-24 have been rejected under 35 U.S.C. 102(b) as being anticipated by the U.S. Pat. No. 6,488,433 to Wien et al. (the "Wien et al. '433" reference, hereinafter).

The Wien et al. '433 reference discloses a covered binder assembly including a front cover, a rear cover, and a spine connecting the front and rear covers. The front cover has a window assembly including a transparent sheet mounted thereto. The front cover may be transparent to allow the user to see through front cover into the interior of the binder. An opening is extended along a corner between the front cover and the spine to provide access to the front cover pocket. A closure arrangement is provided to facilitate the closing of the opening. A second thin transparent sheet forms a spine pocket between the spine and the second transparent sheet. The opening along the corner between the front cover and the spine also provides access to the spine pocket.

However, Applicant has reviewed the Wien et al. '433 reference, and nowhere in the Wien et al. '433 does the reference disclose any member such as a stretchable gather or an elastomeric connector. The unnumbered part in FIG. 2 is a simple binder. There is no part that

has a strain relief characteristics greater than the strain relief characteristics of adjacent parts thereof, to dampen the pulling stress of the zipper in an open position. Thus, it is Applicant's position that the Wien et al. '433 reference also fails to disclose or suggest the present invention as claimed in claims 22-24.

III. Double Patenting

The Examiner provisionally rejected claims 1 and 6-9 on the ground of non-statutory obviousness-type double patenting as being allegedly unpatentable over claims 46-49 of co-pending Application No. 10/858,280.

The Examiner also provisionally rejected claims 1 and 10-12 on the ground of non-statutory obviousness-type double patenting as being allegedly unpatentable over claim 46 of co-pending Application No. 10/858,280. Applicants at this time refrain from addressing these double patenting rejections. These rejections will be moot if this case is first allowed.

IV. Claim Rejections - 35 USC §103

A. The Pitt et al. '898 Reference

Claims 4 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over the Pitt et al. '898 reference in view of the Patent Office position that the offset is obvious. The Patent Office admits that the Pitt et al. 898 reference fails to disclose the feature wherein the offset is between one quarter of an inch and three-quarters of an inch; wherein the offset is about one-half an inch. However, the Patent Office takes the position that in regards to Claims 4 and 5, it would

have been obvious to one having ordinary skill in the art at the time the invention was made to form the offset at any desirable range.

It is Applicant's position that claims 4 and 5 are not obvious in view of the Pitt et al. '898 reference. Claims 4 and 5 depend on claim 1 and includes all of the inventive features of claim 1. Thus, claims 4 and 5 are not anticipated nor made obvious by the Pitt et al. '898 reference.

Furthermore, Applicant finds no incentive in the Pitt et al. '898 reference which would lead a person to all structural features of the spine and cover wherein the binders are placed offset on the cover and not on the spine. The present invention provides a different approach as compared to the Pitt et al. '898 reference, and solves the problem of two binders in opposite direction of each other. As the Pitt et al. '898 reference fails to teach and fails to suggest this feature, Pitt et al. '898 reference provides no teaching and no suggestion to the person of ordinary skill in the art to provide the combination as claimed.

B. The Pitt et al '898 reference in view of the U.S. Design No. D364,640 to Zimbelman

Claims 6-9 and 21 have been rejected under 35 U.S.C. 103(a) as being unpatentable over Pitt et al '898 reference in view of the U.S. Design No. D364,640 to Zimbelman (the "Zimbelman '640" reference, hereinafter). The Patent Office admits that the Pitt et al. '898 reference fails to disclose the feature wherein one of the binders includes a hold down page that is equipped with a releasable latch that releasably anchors the page to one of the covers; wherein

the latch comprises a latch strap carried by the one of the covers and a latch receiver carried by the hold down page; and wherein the latch strap and receiver comprises a hook loop and fastener.

For these features, the Patent Office relies on the FIGS. 1 and 2 of the Zimbleman '640 reference and concludes that it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the Pitt et al's binder arrangement with a hold down page as taught by Zimbleman for providing storage separators.

Applicant respectfully disagree with this assessment. The claims 6-9 are all dependent claims which also include the inventive features of the basic claim from which they rely on. Thus, the argument above apply mutandis mutatis to this rejection as well.

Regarding claim 21, claim 21 has also been amended to highlight the important combination of features which define over the prior art of the Pitt et al. '898 reference and the Zimbleman '640 reference. Thus, claim 21 also is not anticipated nor suggested by the prior art references.

C. The Wien et al. '433 Reference

Claims 1 and 10-12 have been rejected under 35 U.S.C. 103(a) as being unpatentable over Wien et al. '433 reference. The Patent Office admits that the Wien et al '433 reference fails to disclose a second binder carried by the other cover. Patent Office takes the position that it would have been obvious to one having ordinary skill in the art at the time the invention was made to include a second binder on the other cover, since it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art.

Applicants respectfully disagree with this assessment as well. Having two binders against each other creates a problem which Applicant has observed. Thus, Applicant has invented a device which overcomes these problems. The present invention provides a different approach compared to the Wien et al. '433 reference and solves the problem of two binders facing each other. As the Wien et al. '433 reference fails to teach and fails to suggest the feature, Wien et al. '433 reference provides no teaching and no suggestion to the person of ordinary skill in the art to provide the combination as claimed.

D. The U.S. Pat. No. 6,209,917 to Welch

Claims 1 and 13-19 have been rejected under 35 U.S.C. 103(a) as being unpatentable over the U.S. Pat. No. 6,209,917 to Welch (the "Welch '917" reference, hereinafter).

The Patent Office admits that the Welch '917 reference fails to disclose a second binder carried by another cover, but takes the position that it would have been obvious to one having ordinary skill in the art at the time the invention was made to include a second binder on the other cover, since it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art.

Applicants respectfully disagree. The two binders on the covers instead of the spine creates a certain problem which is overcome by the present invention as claimed. The Welch '917 reference does not disclose nor suggest any combination of features which suggest a solution to the above problem. There must be some suggestion or teaching in the prior art as a whole which would lead the person of ordinary skill in the art to provide the combination as

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Docket No.: 1668-5
Page 15

claimed. As the prior art as a whole fails to direct the person of ordinary skill in the art toward the claimed combination, the invention should be considered not anticipated, non-obvious, and thus patentable.

As the prior art fails to suggest the combination of features as claimed, Applicants respectfully request that the Examiner reconsider the rejection in view of the discussion above. Applicants respectfully solicit allowance of this application.

It is Applicants' position that all claims are now allowable. Should the Examiner determine that issues remain that have not been resolved by this response, the Examiner is requested to contact Applicants' representative at the number listed below.

Favorable action is requested.

Respectfully submitted,

A handwritten signature in dark ink, appearing to be 'DK', is enclosed within a hand-drawn oval. The signature is positioned above a horizontal line that serves as a separator between the signature and the printed name.

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